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1 IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

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3 W.A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
4 OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
5 ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the )  
6 TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA )

7 )  
Plaintiffs, )

8 )

vs. ) 4:05-CV-00329-TCK-SAJ

9 )

TYSON FOODS, INC., et al., )

10 )

Defendants. )

11 )

12

13 VIDEOTAPED DEPOSITION OF KIRK HOUTCHENS

14 Taken at the law offices of Mitchell, Williams,

15 Selig, Gates & Wooyard, 5414 Pinnacle Point Drive, Suite

16 500, Rogers, Arkansas 72758, on July 26, 2007, at 11:36

17 a.m.

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1 the record.

2 MR. RIGGS: I'm sorry. Poultry Water

3 Quality Handbook.

4 A. What page are you on?

5 Q. (Mr. Riggs continued.) 624. Okay. Left-hand

6 column near the bottom, it says, "In the poultry industry,

7 for example, components of manure, dead birds, and

8 wastewater include nutrients that may be released to water

9 through direct discharge, excessive runoff from the land,

10 or leaching through the soil."

11 Do you understand what the term runoff means as used

12 in the handbook which your company provided your growers?

13 A. Yes.

14 Q. Let's look at page 630 of the Poultry Water Quality

15 Handbook. There it says -- if I can find the place.

16 Under the heading Nutrients and Salts, "Poultry manure is

17 a valuable nutrient for grain and fiber crops, forage

18 crops, fruit, and vegetables. However, if manure, litter,

19 dead birds, (as compost or as buried carcasses) and/or

20 wastewater are not properly protected and utilized, water

21 contamination can occur from the release of excess

22 nitrogen and phosphorus into the environment."

23 Do you agree with that statement?

24 A. Yes, I do.

25 Q. Skipping on down, it says -- it's one full paragraph

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1 can't answer that. That's -- that's my job, and I've  
2 answered that for you.

3 Now, we've been at this for an hour and  
4 you've yet to ask him the question that is listed in the  
5 topic --

6 MR. RIGGS: The topic of what I've been  
7 asking him about. We need to take a break. We're about  
8 out of time here.

9 THE VIDEOGRAPHER: The time is 2:22. This  
10 is the end of tape 2. We're off the record.

11 (Wherein, a break was taken from 2:22 to 2:36 p.m.)

12 THE VIDEOGRAPHER: The time is 2:36. This  
13 is the beginning of tape 3. We're on the record.

14 Q. (Mr. Riggs continued.) Mr. Houtchens, I want to  
15 direct your attention to one more reference in the Water  
16 Quality Handbook that Peterson provided its growers. On  
17 page 644, about the third or fourth paragraph down it  
18 says, "Phosphorus." Whoops, I'll give you time to find  
19 it.

20 A. Okay.

21 Q. Got it? It says, "Phosphorus-laden soil or  
22 dissolved phosphorus can move via runoff into the rivers,  
23 lakes and streams, where it causes excessive plant and  
24 algae growth, which in turn depletes the dissolved oxygen  
25 content in the water. Phosphorus-enriched waters

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1 contribute to fish kills and the premature aging of the  
2 waterbody. In the end, the beauty and the use of the  
3 waters are seriously curtailed. Even relatively small  
4 soil losses may result in significant nutrient depositions  
5 in the water."

6 Do you understand how the word phosphorus is used in  
7 that context?

8 MR. McDANIEL: Object to the form. I think  
9 we've already stated our objections to the use of the term  
10 phosphorus.

11 Q. (Mr. Riggs continued.) Do you understand how it was  
12 used in that context?

13 A. Yes, I do.

14 Q. Do you understand how the word runoff is used in  
15 that context?

16 MR. McDANIEL: I object to the form.

17 A. Yes, I do.

18 Q. (Mr. Riggs continued.) Do you agree with the  
19 statement I just read from the Water Quality Handbook?

20 MR. McDANIEL: I'll object to the form.

21 It's outside the scope of his designation, so Peterson  
22 Farms isn't going to answer that question.

23 Q. (Mr. Riggs continued.) Do you refuse to answer that  
24 question?

25 A. Yes.